IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 835 of 1999

TO

FIRST APPEAL No 906 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT
and
Hon'ble MR.JUSTICE AKSHAY H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SPL.LAQ OFFICER

Versus

KISHORBHAI JIBHAIBHAI

Appearance:

1. First Appeal No. 835 of 1999

MR MA PATEL, AGP for Petitioner No. 1-2

MR JAYESH M PATEL for Respondents.

CORAM : MR.JUSTICE J.N.BHATT
and
MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 26/07/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE J.N.BHATT)

1. Since common questions of facts and law are involved in this group of 72 appeals under Section 54 of the Land Acquisition Act, 1894 (Act), they are being determined and adjudicated upon by a common judgment.

2. This group of appeals at the instance of the State authority and the Special Land Acquisition Officer, Narmada Project is against the common judgment and awards recorded by the Reference Court, Kehda at Nadiad u/S. 18 of the Act on 6/3/1998 in the Land References group Cases No. 1936 of 1994 and allied matters, whereby the total market price of the agricultural land of village Aambaliyara, Taluka Kapadwanj, District Kheda, came to be decided at the rate of Rs.1500/- per Are and other statutory benefits to the respondents - original claimants - owners of the lands acquired by virtue of six notifications. The factual profile highlighted here under alongwith the date of award and amount of compensation offered by the Land Acquisition Officer for the acquisition of lands for the purpose of main canal of Narmada project, which has as such attracted global attention in view of its size, utility and controversy :-

No. LAR No.	Date of Noti. u/S.4	Date award	Amount claimed Irri/Non-Irri.	Amount
			Rs.	Rs.
20/90 to 2412 of 1994	2405	9/5/90	29/3/93 300	200 10,000
50/90 to 1936 of 1994	1927	22/6/90	13/8/93 300	200 10,000

60/90 1954 23/8/90 4/10/93 300 200 10,000
to
1969
of
1994

73/90 1912 19/10/90 1/10/93 300 200 10,000
to
1925
of
1994

87/90 1937 1/8/90 24/8/93 300 200 10,000
2061
to
2070
of
1994

80/90 1938 1/8/90 24/8/93 300 200 10,000
to
1949
of
1994.

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3. Appellant No. 1 - original respondent - Special Land Acquisition Officer, Narmada Project for main canal, pursuant to the aforesaid notifications acquired irrigated and non-irrigated lands for the aforesaid purpose after observing necessary statutory procedure and offered common amount at the rate of Rs.300/- for irrigated lands and at the rate of Rs.200/- for non-irrigated lands in entire group of 72 matters u/S. 11 of the Act. Being dissatisfied by the said amount of award, the original claimants - owners of the lands, desired for references and accordingly references at their instance came to be made u/S. 18 of the Act, claiming an amount of Rs. 10,000/- per Are. The claimants relied on the evidence of claimant Vithalbhai Kishorbhai Patel at Exh. 16 and also placed reliance on the following documentary evidence :-

Exh.30 Certified copy of Expert Mohanlal

Parshottambhai, who was examined on behalf of Government in Government L.A.R. No. 356/1994.

Exh.31 Certified copy of detailed schedule issued by the Expert for produce cost and net profit.

Ex.29/3 Krishi Jivan Magazine upon which the expert has prepared the detailed data.

Exh.32 Award for allowing the compensation of well in village Vanghroli.

Exh.14 Certified copy of the price list issued
15 from Kapadwanj Taluka Agricultural Produce Market Committee for year 1990-91.

Exh.34 Certified copies of village form 7/12.
to 64 &
75 to
145.

Exh.16 Deposition of the claimant Vitthalbhai Kishorbhai.

Exh.155 Written arguments.

4. The appellants herein raised objections against the claims before the Reference Court. They also filed written objections. They relied on the following documentary evidence :-

Exh.19 Sale Index of village Aambaliyara

Exh.20 Map of Main Canal pass through village Aambaliyara.

Exh.21 As above.

Exh.22 Certified copy of the sale deed of land of village Aambaliyara.

Exh.23 Village Form No. 16 for the well.

Exh.24 Sale Deed of the land of village Aambaliyara.

Exh.25 Advance given by the Aambaliyara Coop. Society.

Exh.26 Judgment of this Court in First Appeal No. 1021/1995.

Exh.27 Notification for scarcity

Exh.28 Valuation report of well.

Exh.147 Statement for showing the Annual Income of the claimant

Exh.152 Joint Measurement sheet prepared for agricultural land of village Aambaliyara.

Exh.153 Village Form No. 16 for the well

Exh.154 Closing purshis.

Exh.157 Written statement.

5. The Reference Court placing reliance on the yield pattern and method, after considering the documentary and viva-vos evidence led by the parties and also considering the principles of amount of compensation awardable u/S. 23 of the Act, reached to the conclusion that the claimants are entitled to the total market price of agricultural land at the rate of Rs.1500/- per Are and also other statutory benefits. The Reference Court also found that claimant in one of the Reference L.A.R. No. 2062 of 1994 is entitled to get compensation at the rate of Rs.40,000/- for the cost of construction of two storeyed house. The learned 2nd Extra Assistant Judge, Kheda at Nadiad, by his common judgment in this group of matters dated 6/3/1998 enhanced the amount of market value and rate of market price offered by the Land Acquisition Officer u/S. 11 of the Act

6. The principles governing the amount of compensation in case of acquisition of land are extensively examined and very well expounded in catena of judicial pronouncements. However, we would like to highlight main principles governing the grant of or award of amount by way of compensation u/S. 23 of the Act :-

> Section 23 enumerates the matters to be taken into consideration for determining the amount of compensation under the Act for acquisition of land. They are :
>
> (1) Market value of the land
> (2) Damage to standing crops or trees
> (3) Damage for severance of other lands
> (4) Injurious affection of other property moveable or immoveable, in any other matter or his earnings
> (5) Expenses incurred in cases of change of residence or place of business in consequence of the acquisition
> (6) Damage, if any, bona fide resulting from diminution of profits of land from the time of declaration under Section 6 and the time of the Collector's taking possession of the land.

7. We have heard the learned advocates appearing for the parties dispassionately. We have also examined the legal settings and the latest proposition evolved in this behalf by the case law and we are of the opinion that the

market price enhanced and fixed by the Reference Court in this group of matters at the rate of Rs.1500/- per Are is just and reasonable and there is no fit and appropriate case for interference exercising our powers u/S. 54 of the Act. The reliance on the yield method by the Reference Court is based on the evaluation and appreciation of the oral evidence in respect of the produce per hectare. It is noticed that the original claimants were cultivating crops of millet, paddy and Guvar mainly. The reliance is also placed on the documentary evidence produced at Exhs. 14 and 15 from the Kapadwanj Agricultural Market Produce Committee. This part of the evidence is evaluated and detailed out in the impugned common judgment. The evidence of expert is also considered. The written submissions given by the parties are also taken into account by the Reference Court. It is carefully noticed by the Reference Court that the average yield and price in respect of millet crop per hectare would come to Rs.2.50 ps. x 300 Kgs. = Rs.7,500/per hectare. In case of paddy crop, the Reference Court has found that the average of 4,000 Kgs. would be reasonable to consider at the rate of Rs.3.50 per Kg. and accordingly awarded an amount of Rs.14,000/per hectare. We have found from the examination of the impugned common judgment that the Reference Court has placed reliance on the evidence of claimants and the documentary evidence of Kapadwanj Agricultural Market Produce Committee and the average yield and price is taken as a basis. So is the case in case of Guvar produce in the lands acquired by virtue of the aforesaid six notifications. The average yield per hectare is taken at 8,000 Kgs. and the price is taken at Rs.4/- per Kg. That is how the Reference Court has awarded an amount of Rs.32,000/- per hectare. After having considered the assessment of the evidence and evaluation of the average produce and the price in relation to the relevant date of notifications, we are in agreement with the factors and the principles enunciated by the Reference Court.

8. Our attention is also invited to the following four Division Bench decisions of this Court :-

S. No.	Name of village	Date of Noti.	Amount awarded by the Court	F.A. Nos.	Date of order of this Court
		Sec. 4			

I. Sorana A) 26/7/90 Rs.1500/- 7238 to 7295 30/12/99
B) 16/7/90 of 1998
C) 2/7/90
D) 16/7/90.

II. Salod A) 9/10/90 Rs.1500/- 629 to 679 30/11/99
B) 9/5/90 of 1999
C) 26/7/90
D) 26/7/90
E) 26/7/90
F) 13/11/90

III.Antroli A)10/7/90 Rs.2000/- 4682 to 4807 30/4/99
B) 13/8/90 of 1998
C) 18/6/90
D) 25/6/90
E) 26/7/90
F) 26/7/90
G) 26/7/90
H) 26/7/90
I) 26/7/90
J) 26/7/90

IV.Lasundra A) 11/6/90 Rs.1900/- 4300 to 4501 7/5/99
B) 11/6/90 of 1998
C) 11/7/90
D) 10/7/90
E) 10/7/90
F) 16/7/90
G) 23/7/90
H) 9/5/90
I) 2/7/90
J) 10/7/90
K) 10/9/90
L) 1/8/90
M) 7/8/90
N) 10/7/90
O) 24/7/90
P) 26/6/90
Q) 1/12/90
R) 10/7/90.

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9. After considering the aforesaid 4 decisions of the Division Bench in respect of acquisition of lands for the very project and the dates of notifications in those cases and the dates of notifications in the present group, the amount of compensation awarded by the Reference Court at the rate of Rs.1500/- per Are is quite just and reasonable. Not only that, this group of 72 matters is virtually covered by the aforesaid decisions in general and by decision of this Court in the group matters of First Appeal No. 7238 of 1998, wherein the amount of compensation is given at the rate of Rs.1500/in case of acquisition of land of village Sorana, which is adjoining village of village Aambaliyara covered in the present group of appeals. It could be seen from the aforesaid factual information articulated in a tabular form that the other villages are also not far from village Aambaliyara, the lands of which village have been acquired and covered in the present group of appeals.

10. We would also like to state that we have considered latest proposition of law expounded by the Hon'ble Apex Court in respect of ascertainment and fixity of amount of compensation u/S. 23 of the Act and reported in the case of O.A.K. Nachimuthu v/s. Revenue Divisional Officer, Erode - 2001 AIR SCW 2385.

11. After having taken into consideration the entire factual profile and legal propositions in relation to the fixity of market price as envisaged by the provisions of section 23 of the Act, we are convinced and satisfied that the amount of compensation at the rate of Rs.1500/per Are awarded by the Reference Court in this group of 72 maters u/S. 18 of the Act enhancing the amount of compensation awarded by the Special Land Acquisition Officer u/S. 11 of the Act is quite just and reasonable and also covered by the aforesaid four decisions of this Court. We, therefore, find no merit in this group of appeals. Therefore, appeals are required to be dismissed. Accordingly, they are dismissed with costs.

The office is directed to immediately transmit the original record and proceedings, which we have called for for our examination and consideration for this group of 72 appeals u/S. 54 of the Act.

[J.N.BHATT, J.]

[AKSHAY H. MEHTA, J.]

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